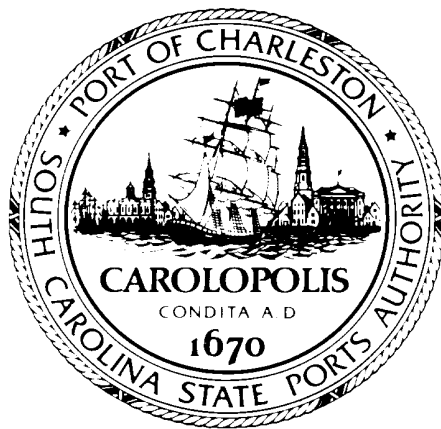


South Carolina State **Ports Authority**

**REQUIREMENTS FOR APPLICATIONS
TO
ESTABLISH FOREIGN-TRADE ZONES
IN
SOUTH CAROLINA**



2002

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AUTHORITY TO MAKE APPLICATION

The South Carolina State Ports Authority receives its authority to make application for foreign-trade zones from *Section 54-3-230 Code of Laws of South Carolina*. The Section reads as follows:

The South Carolina State Ports Authority is authorized to make application to the Foreign-Trade Zones Board for the purpose of establishing, operating, and maintaining foreign-trade zones in the State, under the Act of Congress known as the Foreign-Trade Zones Act which provides for the establishment, operation, and maintenance of foreign-trade zones in the United States.

The South Carolina State Ports Authority shall select and describe the location of the zones for which application may be made and shall make such rules and regulations concerning the operation, maintenance, and policing of them as may be necessary to ensure compliance with the Foreign-Trade Zones Act and for other appropriate purposes.

The South Carolina State Ports Authority shall have full power and authority to erect, maintain, and operate or lease any structures or buildings or enclosures as may be necessary or proper for the establishing, operating, and maintaining of any such foreign-trade zones in the State of South Carolina.

The authority granted to the South Carolina State Ports Authority confers the right and duty and power to do all things necessary and proper to achieve compliance with the Foreign-Trade Zones Act and to carry into effect the establishing, operating, and maintaining of foreign-trade zones within the State.

U.S. FOREIGN-TRADE ZONES

Foreign-trade zones are restricted-access sites in or near Customs ports of entry, which are granted by the Foreign-Trade Zones Board (FTZ Board) and operated under the supervision of the U.S. Customs Service. Operated under public utility principles by qualified companies, zones have as their public policy objective the creation and maintenance of employment and investment through the encouragement of operations in the United States which, for Customs reasons, might otherwise have been carried on abroad. Authority for establishing these facilities is granted by the FTZ Board under the Foreign-Trade Zones Act (Act) of June 18, 1934 (19 USC 81A-81U), as amended by Public Law 566, and the FTZ Board's Regulations (15 CFR Part 400). The FTZ Board, established by the Act, consists of the Secretary of Commerce, who serves as chairman and executive officer, the Secretary of the Treasury, and the Secretary of the Army. The FTZ Board is located within the Department of Commerce, Washington, DC 20230.

Foreign and domestic merchandise may be admitted into zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture, or other processing. The usual formal Customs entry procedure and payment of duties are not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case, the importer has a choice of paying Customs duties either at the applicable Customs duty rate of the original foreign materials or the Customs duty rate of the finished product. The value of the product made in the zone is the sum of the value of the foreign non-duty paid materials in the finished article. Quota restrictions do not normally apply to foreign goods in zones, but the FTZ Board can limit or deny zone use in specific cases on public interest grounds. Special procedures may apply when manufacturing is involved. Domestic goods admitted into a zone for export are considered exported upon entering the zone for purposes of excise tax rebates and drawback.

Typically, a foreign-trade zone is a general warehouse-type building(s) with access to all modes of transportation and available for multiple company use. It is operated as a public warehouse and/or leased. Leased space is available to companies for authorized zone activity. Some zones have industrial park characteristics or are located within such facilities and have lots on which zone users can construct their own facilities.

Every Customs port of entry of the United States is entitled to establish at least one zone upon meeting the requirements of the Act and Regulations. The use of zones is considered a privilege subject to legal and public interest provisions of the Act and Regulations.

In some instances where a company intends to utilize its own plant, designation of the plant site as a "subzone" may be granted. Generally, subzones are existing or new manufacturing facilities that cannot be accommodated within an existing zone. It must be demonstrated that the activity (usually manufacturing) will result in a significant public benefit and is in the public interest. They are considered non-contiguous extensions of zones for single users at their own site and, in this sense, are private rather than public zone facilities.

PERMISSIBLE USES OF ZONES

Foreign and domestic merchandise may be moved into a foreign-trade zone for operation not otherwise prohibited by law involving the following:

I. Storage

Goods can be imported and stored indefinitely, without duty, without bonds, in unlimited quantities (quotas do not normally apply in a trade zone).

II. Manufacturing

Product components can be imported, processed, and/or packaged in the zone.

III. Assembly

Unassembled or knocked-down merchandise may be assembled in a zone.

IV. Exhibition

Products or goods can be displayed for buyer inspection and sampling.

V. Manipulation or Processing

- A. Goods can be processed to meet special requirements of federal agencies to avoid fines and unnecessary paper work.
- B. Merchandise that has been improperly marked can be relabeled.
- C. Merchandise can be repackaged.
- D. Merchandise can be unpacked, tested, and made ready for sale.
- E. Products can be mixed.
- F. Merchandise/goods can be cleaned.
- G. Recoverable waste not utilized may be destroyed, shipped abroad, or entered as waste at a lower duty rate.

Activities described under Paragraphs II, III, and V may require approval from the Foreign-Trade Zones Board.

NON-PERMISSIBLE USES OF ZONES

I. Retail Trade

No retail trade shall be conducted within a zone, except under permits issued by the Zone Grantee and approved by the FTZ Board.

II. Residence Within a Zone

No person shall be allowed to reside within a zone except federal, state, or municipal officers or agents whose resident presence is deemed necessary by the FTZ Board.

III. Grant Restrictions

Certain restrictions have been placed on grants by the Foreign-Trade Zones Board. These restrictions vary from time to time. Below is a partial list of known grant restrictions:

Apparel/Textiles	Printing Ink
Chain Saws	Steel/Shipbuilding
Dairy Products	Sugar
Golf Carts	Television Tubes
Non-MFN Merchandise	Tires
Oil Refining	

MERCHANDISE PERMITTED IN A ZONE

Foreign and domestic merchandise of every description, except as is prohibited by law or excluded from a zone by FTZ Board order, may be brought into a zone.

GUIDELINES FOR EVALUATING FOREIGN-TRADE ZONE APPLICATIONS AND USAGE

I. Policy of the Ports Authority

Recognizing that under federal law, each U.S. Customs port of entry is entitled to at least one foreign-trade zone project on the basis of need for such a facility, it is the policy of the Ports Authority to sponsor the establishment and operation of a foreign-trade zone or zones as part of its effort to promote economic development in South Carolina.

The Ports Authority views a foreign-trade zone as offering special customer services that can help attract certain diversified, industrial-type investments. The ultimate objective is to create new job and investment opportunities for South Carolinians and at the same time expand the state's industrial base. Stimulating additional trade flow through the state's port system, while desirable in itself, is not the Ports Authority's prime objective with respect to foreign-trade zones.

Subject to the limitations provided for in the Act, the Ports Authority will entertain applications from qualified private interests to construct and/or operate a zone or zones, under a special operating agreement. In the consideration of such applications, the Ports Authority will emphasize the establishment of manufacturing, assembling, converting, or processing operations.

As Zone Grantee of a foreign-trade zone granted by the federal government, the Ports Authority will require its zone owner(s)/zone operator(s) to operate in strict compliance with federal laws, rules, and regulations, which includes a requirement that the zone be operated under public utility principles.

II. General Criteria for Evaluating Applications

The Ports Authority will evaluate each foreign-trade zone application it receives, using the following general criteria:

- A. Is the potential owner-operator financially sound, with an established business reputation?
- B. Does the potential owner-operator have a correct understanding of the foreign-trade zone concept?
- C. Does the potential owner-operator have experience in international trade operations?
- D. Has the potential owner-operator conducted sufficient independent investigation to determine the potential for success of a foreign-trade zone in the proposed area?
- E. Does the potential owner-operator have adequate professional personnel to operate and promote the zone in a satisfactory manner?
- F. Does the potential owner-operator either own or have access to an adequate zone site with required supporting utilities and transportation infrastructure?
- G. Is the potential owner-operator fully aware of U.S. government requirements that must be met in constructing and operating the zone?
- H. What is the approximate date the potential owner-operator will begin initial operation of the zone after permission has been granted by the FTZ Board.
- I. Will the potential owner-operator qualify for bonding as required by the U.S. Customs Service?
- J. Local community and state government support, including evidence that the zone project is compatible with the community's master plan or stated goals for economic development.

III. Specific Criteria

The Ports Authority requires for its review and evaluation the following specific information from each potential owner-operator:

- A. A concise statement by the potential owner-operator of the type(s) of operation planned for the zone.
- B. A list of industries or other interested parties, with appropriate documents, expressing "general interest" in the establishment of a zone.
- C. A list of specific industry commitments for use of the zone. For each specific industry commitment listed, the following items of information are required:
 - 1. The type of operation planned within the zone.
 - 2. The form of commitment to the zone owner/zone operator, i.e., contract, agreement, firm letter of intent.
 - 3. Export/import commodities involved and how they will be handled within the zone, and a complete description of the foreign-trade zone savings opportunities.
 - 4. Projected volumes of activity - raw materials, finished products.
- D. How the company's operation will be affected, i.e., expanded, decreased, new, changed.
- E. How the zone serves unique requirements (of proposed user).
- F. The portion of exported/imported commodities anticipated for movement through South Carolina ports.
- G. Employment impact within the zone.
- H. Employment impact on total operation of user.
- I. Investments required to establish operation within the zone.
- J. Anticipated annual net savings associated with FTZ use for the first three (3) years of operations.

IV. Reviewing Economic Factors

In considering the economics of each application, the Ports Authority will emphasize the following:

- A. Projected manufacturing, assembly, converting, or processing use.
- B. Public utility nature of prospective operations.
- C. Impact on South Carolina ports operation.
- D. Local and state economic impacts.

V. Legal References

- A. Foreign-Trade Zones Act - Title 19 USC 81A-81U.
- B. Foreign-Trade Zones Board Regulations - 15 CFR Part 400.
- C. U.S. Customs Regulations on Zones - 19 CFR Part 146.

VI. Statement of Site Qualification

The site will be evaluated by the local Port Director of Customs to determine facility security requirements.

- A. Will the site be able to meet those requirements?
- B. Does potential owner-operator understand what Customs requirements are involved and that they will have to be satisfied?

ZONE APPLICATIONS

- I. The potential owner-operator is required to supply a completed zone application to the Ports Authority.
- II. Upon receipt, review, and acceptance of the completed zone application, the Ports Authority will submit the application to the FTZ Board in Washington for consideration.
- III. Applicable charges are outlined in the Fee Schedule (see p. 19).
- IV. Applications for grants of authority for zones shall consist of a transmittal letter, an executive summary, and five exhibits as shown below (15 CFR Part 400.24):

<u>Exhibit</u>	<u>Description</u>
1	Authority to Apply
2	Site Description
3	Operation and Financing
4	Economic Justification
5	Maps

- V. Applications that involve the establishment of subzone sites as part of a proposed or existing zone shall be submitted and processed in the same manner as an original application for a grant of authority, except that the focus of the information provided in Exhibit 4 above shall be on the specific activity involved and its net economic effect.
- VI. A list of organizations that offer the services of preparing applications, activation requests, manufacturing requests, and tariffs for qualified organizations is available by contacting the Commercial Business Development Office, South Carolina State Ports Authority at (843) 577-8144.
- VII. After the FTZ Board approves the application, the site operator will be required to enter into an operations agreement with the Zone Grantee, the Ports Authority. This agreement will need to be executed before the Zone Grantee will give a letter of concurrence for the U.S. Customs activation request.

REQUIREMENTS FOR APPLICATIONS

The Ports Authority believes the private zone owner-operator concept to be an acceptable alternative to strictly public investment and operation of zones. Therefore, where the need for a zone can be shown and its placement is not in violation of federal rules, regulations, or laws, the Ports Authority will make application to the FTZ Board for the privilege of establishing, operating, and maintaining the zone at the desired location.

The Ports Authority will undertake its best efforts to determine the probability of acceptance for filing and issuance of a Board Order by the FTZ Board for the proposed project. However, the Ports Authority cannot guarantee that the FTZ Board will approve any project. To ensure a fair and thorough review, the potential zone owner-operator must submit a draft application to the Ports Authority for its review which describes the project in detail.

One copy of the draft application needs to be submitted to the Ports Authority for its review. After the corrections are made and the final version is ready, the potential owner-operator is responsible for sending (12) twelve copies to the Ports Authority for submission to the FTZ Board.

Applications shall be submitted and consist of a transmittal letter, executive summary, and five exhibits which are outlined below in *Minimum Requirements for Application Contents* and must meet Foreign-Trade Zones Board Regulation 15 CFR Part 400.24.

Note: Applications that involve the establishment of subzone sites shall be submitted in the same manner as those for a general-purpose foreign-trade zone except that there are specific guidelines to assist the potential owner-operator in the preparation of Exhibit 4, the Economic Justification part of the application. These guidelines are outlined in Subzones (see p. 14).

Applications for zone projects should be submitted to:

Commercial Business Development Office
South Carolina State Ports Authority
PO Box 22287
Charleston, SC 29413-2287

I. General-Purpose Zones

Minimum Requirements for Application Contents

- A. Transmittal Letter- This should be addressed to the Executive Secretary, Foreign-Trade Zones Board, and should state briefly the type of business you are in and why you feel a foreign-trade zone or subzone would be of benefit both to your company and the community (i.e., the purpose of this application). It should be currently dated and signed by the President/CEO, South Carolina State Ports Authority, as Zone Grantee.
- B. Executive Summary-The executive summary shall describe:
 - 1. The type of authority being requested (general-purpose or subzone).
 - 2. The proposed zone site and facilities and the larger project of which the zone is a part.
 - 3. The project background, including surveys and studies.
 - 4. The relationship of the project to the community's and state's overall economic development plans and objectives.
 - 5. The plans for operating and financing the project.
 - 6. Any additional pertinent information needed for a complete summary description of the application.
- C. Exhibit 1-Certified copy of the Ports Authority's organizing or incorporating documents.
- D. Exhibit 2-Site Description. This exhibit shall include:
 - 1. A detailed description of the proposed zone or subzone site, including size, location, and address.
 - 2. A legal description of the proposed area.
 - 3. A summary description of the larger project of which the zone is a part, including type, size, location, and address.
 - 4. A statement as to whether the zone is within or adjacent to a Customs port of entry.

5. A description of zone facilities and services, including dimensions and types of existing and proposed structures.
 6. A description of existing or proposed site qualifications including land-use zoning, relationship to flood plain, infrastructure, utilities, security, and access to transportation services.
 7. A description of current activities in or contiguous to the project.
 8. If part of a port facility, a summary of port and transportation services and facilities; if not, a summary description of transportation systems indicating connections from local and regional points of arrival to the zone.
 9. A statement as to the possibilities and plans for zone expansion.
- E. Exhibit 3-Operation and Financing. This exhibit shall include:
1. A statement as to site ownership and, if not owned by the potential operator, evidence as to the legal right to use the site on a long-term basis.
 2. A discussion of the operational plan; and, when the zone or a portion thereof will be operated by other than the Zone Grantee, the name and qualifications of the proposed operator, a summary of the process used in selecting the operator.
 3. A brief explanation of the plans for providing facilities, physical security and for satisfying the requirements for Customs automated systems.
 4. The plans for financing capital and operating costs, including a statement as to the source and use of funds.
 5. The estimated time schedule for construction and activation.
 6. A summary as to anticipated cash flow projections on an annual basis for the first three years of operation.
- F. Exhibit 4-Economic Justification. This exhibit shall include:
1. A statement of the community's overall economic goals and strategies in relation to those of the region and state.
 2. An explanation of the plan or plans on which the goals are based and how they relate to the zone project.

3. An economic profile of the community, including identification and discussion of dominant sectors in terms of percentage of employment or income, area resources and problems, economic imbalances, unemployment rates, area foreign-trade statistics, and area port facilities and transportation networks.
4. A statement as to the role and objectives of the zone project and a justification for the proposed site.
5. A discussion of the anticipated economic impact, direct and indirect, of the zone project, including references to public costs and benefits, employment, U.S. international trade, and environmental impact.
6. A statement as to the need for zone services in the community, with information on surveys of business, and specific expressions of interest from proposed zone users, with letters of intent from those companies that are considered prime prospects.
7. A description of any proposed manufacturing and processing operations, with information as to the nature and scope of the operation and production process, materials and components used, items to be foreign sourced, with relevant tariff information, zone benefits anticipated and how they will affect the company's plans, and the economic impact of the operation on the community.

Because the FTZ Board will consider the broader impact of manufacturing operations in relation to competing domestic industries, the potential owner-operator should also address this area, particularly where the operations involve import sensitive products.

G. Exhibit 5-Maps.

Three full-sized original maps in the categories listed below shall be submitted, with letter-sized reductions provided for copies of the application.

1. State and county maps showing the location of the proposed zone site in terms of the area's transportation network.
2. A U.S. Geodetic Survey map, or the equivalent, showing in green the location of the existing general-purpose foreign-trade zone site and in red the location of the proposed site.
3. A detailed blueprint of the proposed zone or subzone site, showing the zone boundaries in red, with dimensions and metes and bounds, or other legal description, and showing existing and proposed structures.

4. For applications involving existing zones, a drawing showing existing zone sites and the proposed changes.

Additional information needed to adequately evaluate the application may be required.

II. Subzones

Note: These guidelines are for use in preparing Exhibit 4 of the application. An application to establish a subzone as part of a proposed or existing general-purpose zone shall be submitted, in accordance with the format in 15 CFR Part 400.24, except that the focus of the information provided in Exhibit 4 shall be on the specific activity involved and its net economic effect. The information submitted in Exhibit 4 shall include:

- A. A summary as to the reasons for the subzone and an explanation of its anticipated economic effects.
- B. Identity of the subzone user and its corporate affiliation.

Company Background. Give a profile of the company operating the subzone facility, to include:

1. Headquarters and plant locations.
2. Rankings, such as Fortune 500 and Forbes.
3. Subsidiaries and affiliates.
4. Products.
5. Annual sales.
6. Other plants that make the product to be manufactured in the subzone (foreign or domestic).
7. Share of market estimate for products to be made in the zone.
8. Sources of supply for materials and components used in the proposed subzone.
9. Types of customers.
10. Company's position in domestic and world markets for this product.

11. Company's international competitive status and plans (e.g., losing/gaining shares in world/domestic markets. Why? Problems? Plans to overcome problems?)

C. Description of the proposed activity, including:

1. Products.

Describe products¹ to be manufactured in the subzone, to include:

- a. Specifications.
- b. End use.
- c. Materials and components.
- d. Sourcing plans (domestic/foreign).
- e. Tariff rates and other import requirements or restrictions.
- f. Information on imports both as individual items and as components of imported products subject to quotas or inverted tariffs and their percent of finished product's material value.
- g. Estimate of U.S. value added as a percent of finished product's value.
- h. Overall economic impact of activity.
- I. Exports and re-exports.
- j. Retention or creation of manufacturing or processing activity.
- k. Extent of value-added activity.
- l. Overall effect on import levels of relevant products, including import displacement.
- m. Extent and nature of foreign competition in relevant products.

¹When describing a product, material, or component, the Customs HTSUS Classification (Harmonized Code 8-11 digits) should be given, and duty rates supplied when appropriate.

2. Impact on related domestic industry, taking into account market conditions:

Public Benefits. Discussion of how zone procedures will help the company maintain or expand U.S. operations in competition with offshore activity, to include how the subzone will:

- a. Encourage exports. Give current and prospective export percentages for each product. Discuss foreign markets and explain how reduced Customs costs will help the company.
 - b. Encourage company to shift operations to U.S. or to keep operations in the U.S. What are the alternatives? What are the pressures on the company to stay or move abroad?
 - c. Compete with imports in domestic market. What advantages do imports have? Price differential? Product type or quality differential? Explain how zone procedures will help to overcome advantages imports have, and provide details or evidence on how zone procedures will help to displace imports in the U.S. market.
 - d. Result in a net increase in U.S. value added. Discuss in terms of percent of production that is expected to displace U.S. products, and estimated value added by company's operation versus total value of product.
 - e. Encourage plant/company employment. What are employment trends and prospects? (Give figures.)
 - f. Affect the company's purchasing patterns related to imports of either components or end products. Is the company importing now? Why? Are these products available in the U.S.? Would zone procedures encourage additional imports? Explain.
3. Other relevant information relating to public interest and net economic impact considerations, including technology transfers and investment effects.
4. Benefits to the subzone user.

Zone Benefits to Company. Discuss in terms, to include:

- a. Duty, quota, and excise tax benefits.
- b. Incidental benefits.

- c. Inverted tariff benefits, if any.
 - 1) List imported components, finished products, and duty rates, if not listed above.
 - 2) Weighted-average duty rate of imported products.
 - d. Percent foreign content (overall) of products to be made in proposed subzone.
 - e. Scrap or waste factors.
 - f. Exports and drawback.
 - g. How zone procedures will help the company (e.g., inverted tariff, duty referral, drawback alternative).
 - h. Other problems zone procedures will solve.
 - I. Estimated annual dollar savings from zone procedures.
- 5. Information required in 15 CFR Part 400.24(d)(4)(vii). (This information is required for Exhibit 4 in general-purpose zone applications.)
 - 6. Information as to whether alternative procedures have been considered as a means of obtaining the benefits sought.
 - 7. Information on the industry involved and extent of international competition.

Industry Background. Discuss the industry associated with the product produced in the subzone in terms, to include:

- a. Industry sales volume (last two years).
- b. Market characteristics and trends.
- c. Types of suppliers and customers.
- d. Imports as a percent of U.S. market.
- e. Major competitors - domestic and foreign.
- f. Competitive advantages enjoyed by overseas companies.

- g. Primary competitive factor(s) - (price, quality, delivery time, brand).
- h. Any unusual characteristics of the industry.
- i. Trade issues involving finished product or components (such as AD, CV orders, quotas, special exemptions from GATT, escape clause). If none, so state.

8. Economic impact of the operation on the area.

D. Reason operation cannot be conducted within a general-purpose zone.

Use of Public Zone. Discuss why the operation cannot be accommodated in the area's public zone facilities. Relate attempts to use public zone, including discussions with Zone Grantee (the Ports Authority) and zone operator.

E. Statement as to environmental impact.

- 1. Will zone procedures change the physical aspects of the plant operation?
- 2. Indicate local zoning and status of any applications for construction approvals.
- 3. Are there any land-use issues?
- 4. Is the site in a flood plain?

F. Any additional information requested by the Executive Secretary of the FTZ Board in order to conduct the review.

The Executive Secretary may issue guidelines as to the kind of detailed information needed for various types of subzone cases.

G. *Burden of Proof.* A potential owner-operator for a subzone must demonstrate to the FTZ Board that the proposed operation meets the criteria in 15 CFR Part 400.23(b).

Certain fees apply that cover reimbursement of the Ports Authority's out-of-pocket expenses incurred in processing the general-purpose zone or subzone applications plus the applicable FTZ Board application fee(s). These fees are addressed in the Fee Schedule (see p. 19).

FEE SCHEDULE

I. Application Fee(s)

A. A schedule of the FTZ Board application fee(s) is as follows:

1. Additional general-purpose zones\$3,200
2. Special-purpose subzones
 - a. Non-manufacturing/processing or less than three products\$4,000
 - b. Manufacturing/processing - three or more products\$6,500
3. Expansions\$1,600

Note: Applications combining requests for more than one type of approval are subject to the fee for each category.

B. Applications submitted to the Ports Authority shall include a check in the amount called for in the FTZ Board application fee schedule. The check shall be made payable to the Foreign-Trade Zones Board.

II. Administrative Charges

Fees for administrative charges are as set forth in the most current Grantee Fee Schedule issued by the Ports Authority, as amended from time to time. These fees are payable as reimbursement for services provided by the Ports Authority as Zone Grantee and also cover such fees as the FTZ activation fee and the annual FTZ site fee.

Customs administration fees and expenses and Customs bond expense, if not paid directly to Customs by the Zone Site Operators, are to be reimbursed to the Ports Authority as Zone Grantee.